TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE

FISCAL MEMORANDUM

SB 2397 – HB 2432

March 22, 2018

SUMMARY OF ORIGINAL BILL: Requires the Commissioner of the Department of General Services to report to the Governor and each member of the General Assembly by January 15, 2019, on all state departments and agencies utilizing energy savings performance contracting for the purpose of reducing energy and water use in state buildings.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENT (015866): Deletes all language after the enacting clause. Authorizes state procurement agencies to enter into an energy performance or guaranteed energy savings contract. Requires any contract awarded under the proposed legislation must meet the requirements of Tenn. Code Ann. § 12-4-110. Such contracts must be approved by the State Building Commission.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Other Fiscal Impact – Due to multiple unknown factors, the net impact on state revenue and expenditures cannot reasonably be estimated.

Assumptions for the bill as amended:

- The proposed legislation authorizes state procurement agencies to enter into performance or guaranteed energy savings contracts for the purpose of developing and implementing five pilot projects.
- The agencies are authorized to use alternative procurement methods including utilizing existing, competitively procured out-of-state government contracts that incorporate energy savings into the scope of work.
- Any contract entered into must meet the requirements of Tenn. Code Ann. § 12-4-110 relative to energy-related service contracts. Tennessee Code Annotated § 12-4-110 requires all contracts by counties, cities, metropolitan governments, towns, utility districts, and other municipal and public corporations for energy-related services to be awarded on the same basis as contracts for professional services.

- Such contracts must be limited to the following energy conservation measures: building envelope weatherization; building automation controls; lighting retrofits and controls; water conservation, HVAC, chiller plant, boiler plant, or other mechanical modifications; and submetering to measure performance of controls or systems.
- Each pilot project must be audited by a third-party and must be paid for by the vendor. These audits should include the energy savings achieved, energy saving targets missed, met, or exceeded, and guarantees paid by the vendor to the state. The audits must be sent to the Office of Energy Programs within the Department of Environment and Conservation (TDEC).
- TDEC must report to the Governor, the Comptroller of the Treasury, and the General Assembly on the results of each pilot project.
- A guaranteed energy savings contract, as the name suggests, guarantees a certain amount of savings for energy costs realized by the state. If the savings are not met, the vendor will pay the savings to the state.
- For example, a company sells LED lighting to the state and guarantees that the added costs of LED lighting will ultimately save the state more money than the increase in expenditures. If the LED lighting does not generate such savings, then the vendor pays the state the amount of guaranteed savings specified under the contract.
- Thus, the proposed legislation could increase expenditures for the various energy conservation measures, decrease state expenditures from energy savings, and increase revenue to the state from the vendor paying guaranteed savings amounts.
- However, due to multiple unknown factors, the net impact to state revenue and expenditures cannot reasonably be estimated.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

Krista M. Lee

Krista M. Lee, Executive Director

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